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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 3058

03/13/2014 Authored by McNamar

The bill was read for the first time and referred to the Committee on Transportation Policy

03/19/2014 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; traffic regulations; authorizing local units of government
1.3 to establish educational diversion programs for certain traffic offenses; requiring
1.4 the development of uniform minimum standards for the programs; classifying
1.5 data; amending Minnesota Statutes 2012, sections 6.74; 13.6905, by adding
1.6 a subdivision; 169.022; proposing coding for new law in Minnesota Statutes,
1.7 chapter 169.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2012, section 6.74, is amended to read:

1.10 **6.74 INFORMATION COLLECTED FROM LOCAL GOVERNMENTS.**

1.11 The state auditor, or a designated agent, shall collect annually from all city, county,
1.12 and other local units of government, information as to the assessment of property,
1.13 collection of taxes, receipts from licenses and other sources including administrative fines
1.14 assessed and collected pursuant to section 169.999 and diversion program fees collected
1.15 under section 169.9991, the expenditure of public funds for all purposes, borrowing,
1.16 debts, principal and interest payments on debts, and such other information as may be
1.17 needful. The data shall be supplied upon forms prescribed by the state auditor, and
1.18 all public officials so called upon shall fill out properly and return promptly all forms
1.19 so transmitted. The state auditor or assistants, may examine local records in order to
1.20 complete or verify the information.

1.21 Sec. 2. Minnesota Statutes 2012, section 13.6905, is amended by adding a subdivision
1.22 to read:

2.1 Subd. 34. **Traffic offense educational diversion program data.** Data related
2.2 to a traffic offense educational diversion program are governed by section 169.9991,
2.3 subdivision 12.

2.4 Sec. 3. Minnesota Statutes 2012, section 169.022, is amended to read:

2.5 **169.022 UNIFORM APPLICATION.**

2.6 The provisions of this chapter shall be applicable and uniform throughout this state
2.7 and in all political subdivisions and municipalities therein, and no local authority shall
2.8 enact or enforce any rule or regulation in conflict with the provisions of this chapter unless
2.9 expressly authorized herein. Local authorities may adopt traffic regulations which are not
2.10 in conflict with the provisions of this chapter; provided, that when any local ordinance
2.11 regulating traffic covers the same subject for which a penalty is provided for in this
2.12 chapter, then the penalty provided for violation of said local ordinance shall be identical
2.13 with the penalty provided for in this chapter for the same offense, except as otherwise
2.14 provided in section 169.9991 and in associated standards or rules.

2.15 Sec. 4. **[169.9991] TRAFFIC OFFENSE EDUCATIONAL DIVERSION**
2.16 **PROGRAMS.**

2.17 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in
2.18 this subdivision have the meanings given.

2.19 (b) "Local unit of government" means a county, a home rule charter or statutory
2.20 city, or a town.

2.21 (c) "Diversion program" or "program" means the traffic offense educational
2.22 diversion program created by this section.

2.23 Subd. 2. **Programs authorized.** (a) A local unit of government may establish
2.24 a diversion program for holders of class D drivers' licenses who commit one of the
2.25 following offenses:

2.26 (1) failure to obey traffic-control signals in violation of section 169.06;

2.27 (2) violating section 169.14, where the violation consists of a speed under 15
2.28 miles per hour in excess of the lawful speed limit, but excluding a speed limit violation
2.29 described in section 171.12, subdivision 6;

2.30 (3) passing on the right in violation of section 169.18, subdivision 4;

2.31 (4) following a vehicle too closely in violation of section 169.18, subdivision 8;

2.32 (5) passing a parked emergency vehicle in violation of section 169.18, subdivision 11;

2.33 (6) failing to yield right-of-way in violation of section 169.20, subdivision 1;

2.34 (7) failing to obey a stop sign in violation of section 169.20, subdivision 3;

3.1 (8) failing to obey a stop line in violation of section 169.30;

3.2 (9) operating a vehicle that is in violation of sections 169.46 to 169.68 and 169.69
3.3 to 169.75; and

3.4 (10) using a wireless communications device in violation of section 169.475.

3.5 (b) To establish a program under this section, the governing body of a local unit of
3.6 government shall pass a resolution authorizing and setting the fee for the program and
3.7 report the resolution to the commissioner of public safety and the state auditor.

3.8 (c) When issuing a citation to a vehicle operator for an offense described in
3.9 paragraph (a), a peace officer employed by a local unit of government that has complied
3.10 with paragraph (b) may also provide written information about the governmental unit's
3.11 diversion program, including contact information, eligibility, participation fee, duration,
3.12 content, and benefits. The peace officer shall use best efforts to avoid referring an
3.13 ineligible person to the program.

3.14 (d) A person who has been referred to a diversion program under paragraph (c)
3.15 may respond to the citation as otherwise provided for in law or proceed under this
3.16 section. If the person chooses to proceed under this section, the person shall enroll in
3.17 and successfully complete the program. A person who is not eligible for the program
3.18 or otherwise fails to successfully complete it shall either pay the citation or contest it
3.19 as otherwise provided for in law.

3.20 Subd. 3. **Compliance with best practices.** A diversion program operating under
3.21 this section shall comply with the best practices developed by the commissioner of public
3.22 safety under subdivision 4.

3.23 Subd. 4. **Program best practices; fee.** (a) By September 15, 2014, the
3.24 commissioner of public safety shall develop and disseminate to local units of government
3.25 uniform best practices for diversion programs under this section. The commissioner may
3.26 amend the best practices at any time and shall disseminate any amendments to local units
3.27 of government. At a minimum, the best practices must address the following:

3.28 (1) the minimum duration of a program;

3.29 (2) acceptable locations for a program, including whether a program may be offered
3.30 online, and whether a program must be offered within a certain distance of a referred
3.31 person's home;

3.32 (3) the curriculum of the program, including whether the program must address the
3.33 specific offense for which a person was cited;

3.34 (4) qualifications for persons conducting the program;

3.35 (5) eligibility for participation, including whether a person who previously completed
3.36 a program is eligible to participate again, subject to subdivision 7, paragraph (b); and

4.1 (6) requirements for successful completion of the program.

4.2 The commissioner, in developing best practices for diversion programs, shall consult with
4.3 the Minnesota Police and Peace Officers Association, Minnesota Sheriffs Association,
4.4 Minnesota Chiefs of Police Association, Minnesota County Attorneys Association,
4.5 Association of Minnesota Counties, League of Minnesota Cities, and an organization with
4.6 expertise in driver education such as American Automobile Association or Minnesota
4.7 Safety Council.

4.8 (b) A local unit of government may establish a program fee of up to \$75. The fee
4.9 must be set in the resolution required in subdivision 2, paragraph (b). Fees collected by
4.10 the local unit of government must be reported to the commissioner of public safety and the
4.11 state auditor. Fees may be retained by the local unit of government to pay the costs of
4.12 administering and operating the program, promoting traffic safety, and administering and
4.13 operating other safety and educational programs within the jurisdiction.

4.14 Subd. 5. **Surcharge.** The surcharge imposed under section 357.021, subdivision
4.15 6, does not apply to a participant in a diversion program.

4.16 Subd. 6. **Contracting with third parties.** Notwithstanding any other law or
4.17 ordinance to the contrary, a local unit of government that establishes a diversion program
4.18 under this section may contract with a third party to create and administer the program.
4.19 The contract must require the third party to comply with and operate the program in
4.20 accordance with the requirements of this section.

4.21 Subd. 7. **Officer's authority.** (a) The authority to refer a person to a diversion
4.22 program under this section is reserved exclusively to licensed peace officers. An officer
4.23 may not be required by ordinance or otherwise to make a referral.

4.24 (b) A peace officer is prohibited from referring a person to the program when the
4.25 person has more than two convictions for a violation identified in subdivision 2, paragraph
4.26 (a), in a 12-month period, beginning on the date of the first violation.

4.27 Subd. 8. **Records.** The program administrator of each diversion program shall be
4.28 responsible for determining participant eligibility and successful completion. A report,
4.29 in a form specified by the commissioner of public safety, of licensed drivers who have
4.30 enrolled in, participated in, or successfully completed a diversion program must be
4.31 promptly transmitted to the commissioner of public safety, who shall retain the records
4.32 and communicate them, on request, to similar programs in the state for the purpose
4.33 of determining eligibility.

4.34 Subd. 9. **Driving records.** (a) The commissioner of public safety may not record
4.35 the underlying violation on the driving record of an eligible person who successfully

5.1 completes a diversion program or use it as grounds for revocation or suspension of the
5.2 person's driver's license.

5.3 (b) A violation identified in subdivision 2, paragraph (a), must be recorded in the
5.4 comprehensive incident-based reporting system under section 299C.40, for the limited
5.5 purpose of ensuring compliance with subdivision 7, paragraph (b).

5.6 Subd. 10. **Commercial drivers' licenses and commercial vehicles; eligibility for**
5.7 **participation.** A person who holds a commercial driver's license, or is the driver of a
5.8 commercial vehicle in which an offense was committed, is not eligible for a diversion
5.9 program under this section if participation would constitute noncompliance with federal
5.10 law or regulation and subject the state to possible loss of federal funds.

5.11 Subd. 11. **Local preemption.** Diversion programs under this section are limited
5.12 exclusively to those offenses listed in subdivision 2, paragraph (a).

5.13 Subd. 12. **Data.** Data on individuals referred to or enrolled in a diversion program
5.14 under this section are private data on individuals, as defined in section 13.02, subdivision
5.15 12, and may not be disclosed to insurers or used by insurers to adjust an individual's
5.16 vehicle insurance premiums. However, the Department of Public Safety, law enforcement
5.17 personnel, and individuals working with diversion programs may access the data to carry
5.18 out their duties under this section.

5.19 Sec. 5. **EFFECTIVE DATE.**

5.20 Section 4, subdivision 4, is effective the day after final enactment. Sections 1 to 3,
5.21 and section 4, subdivisions 2, 3, and 5 to 12, are effective January 15, 2015.